



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 6009-99

10 December 1999

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 8 December 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 1 December 1969 for two years at age 18. The record reflects that you were advanced to CPL (E-4) and served without incident until 26 June 1971 when you were reported in an unauthorized absence (UA) status. You surrendered three days later.

You were reported UA again on 1 July 1971 and remained absent until you were apprehended by civil authorities on 4 August 1971. You were returned to military jurisdiction on 24 November 1971. However, you broke restriction on 29 November 1971 and were declared a deserter. You remained absent until you were apprehended and returned to military jurisdiction by civil authorities on 4 September 1974.

On 12 September 1974, the Commandant of the Marine Corps was notified that while awaiting transfer to Camp Pendleton, you had escaped from confinement and your whereabouts were unknown. The record reflects that on 23 June 1983 you were notified by

certified mail that you were being processed for administrative discharge by reason of your lengthy period of UA. The letter advised you of your rights and gave you an opportunity to return to military control. The record further reflects that you returned the "notification of rights" statement on 1 September 1983 and waived your rights. On 1 February 1984 you were discharged under other than honorable conditions by reason of "misconduct-absent without leave."

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, low test scores, the 18 months of unblemished service during which you were promoted to CPL, and the fact that it has been more than 15 years since you were discharged. The Board concluded that these factors were insufficient to warrant recharacterization of your discharge given your record of three periods of UA totalling more than 12 years, and since you never returned to military control after your last UA. You have provided neither probative evidence nor an explanation of any circumstance which would have prevented you from returning to military jurisdiction. The Board concluded that you were guilty of too much UA to warrant recharacterization to an honorable or general discharge. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director